

ADOPTED BY THE  
MAYOR AND COUNCIL

September 10, 2013

ORDINANCE NO. 11106

RELATING TO BOARDS AND COMMISSIONS; CREATING THE WATER SERVICE AREA REVIEW BOARD; ESTABLISHING BOARD COMPOSITION AND PROCEDURES; AND DECLARING AN EMERGENCY.

WHEREAS, On August 4, 2010 the Mayor and Council adopted a Water Service Area Policy establishing a water service boundary for Tucson Water; and

WHEREAS, a provision of the Water Service Area Policy was the establishment of an Administrative Review Board to allow for the appeal denials of water service under the policy; and

WHEREAS, the Administrative Review Board was tasked solely with reviewing if Tucson Water's denial of water service was in accordance with the Water Service Area Policy, and was a process that was not open to the public or the appellant; and

WHEREAS, during the Mayor and Council Regular Session meeting on July 9, 2013, Mayor and Council unanimously approved nine refinements to the City's Water Service Area Policy, including a new process for how denials of water service can be appealed; and

WHEREAS, City staff was directed to return to Mayor and Council with proposed procedures for the new Water Service Area Review Board.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. CREATION. Pursuant to Tucson Code (T.C.) § 10A-139(a), the Water Service Area Review Board ("Board") is created as a Mayor and Council Advisory Board.

SECTION 2. APPLICABILITY OF T.C. CHAPTER 10A, ARTICLE XIII. The provisions of T.C. Chapter 10A, Article XIII (T.C. §§ 10A-133 through 10A-139 inclusive) shall not apply to the Board, and instead this Ordinance shall govern the Board's composition and procedures.

SECTION 3. COMPOSITION;; OFFICERS; QUORUM; VOTE REQUIREMENT.

(a) Composition. The Board shall be composed of three (3) members, as follows: the Assistant City Manager overseeing Tucson Water, the Planning and Development Services Director, and the Planning and Policy Program Director.

(b) Quorum. Two (2) members of the Board shall constitute a quorum.

(c) Chair. The Board shall appoint one of its members to serve as Chair, who shall preside over the meetings of the Board.

(d) Votes Required. Any decision or action of the Board shall require the affirmative vote of at least two (2) of its members.

SECTION 4. MISSION, RESPONSIBILITIES, AND FUNCTIONS. The Board shall have the following mission, responsibilities and functions:

1. The Board shall hear and consider appeals and requests for water service as provided under the Water Service Area Policy approved by the Mayor and Council.
2. Applicants may present their case to the Board in person or through the applicant's designated representative. The Board shall have the discretion to

limit the number of witnesses and the duration of any such presentation by majority vote.

3. Board proceedings shall be open to the public and subject to the provisions of the Arizona Open Meetings laws.
4. In any hearing on an appeal or request for water service, the Board shall consider all relevant and pertinent facts, not just whether Tucson Water followed the existing policy in making a determination under this section.
5. The Board shall have the following authority:

- a) If the Board determines that Tucson Water erred in denying the requested water service under this Policy, the Board shall grant the appeal and direct Tucson Water to provide service. The Board shall state the reasons for granting the request in writing.

- b) If the Board determines that Tucson Water did not err in denying the service request, but finds that water service should be provided to the applicant either because the applicant qualifies for the Primary Jobs Incentive exemption under subsections 1(J)(2) and 1(J)(3) of the Water Service Area Policy or because the applicant presented facts that support a modification under 1(J)(1) of that Policy, then the Board shall forward the application to the Mayor and Council with a recommendation of approval, which shall include the Board's findings that support the recommendation. The Mayor and Council shall not be bound by the Board's recommendation, but shall have the authority to grant or deny the application,

- c) If the Board determines that Tucson Water did not err in denying the service request, and that the applicant does not qualify for the Primary Jobs Incentive exemption or did not present facts that support a modification of this Policy, then the Board shall deny the request.
6. If the Board denies the request, the applicant may appeal the Board's decision to the Mayor and Council.
  7. When considering any appeal or request for water service, the Board shall allow the appellant and members of the public to address the board, subject to the limitations the Board may impose as provided in (2) above;
  8. The Board shall have the discretion to limit the presentation of redundant or irrelevant information and may establish rules of procedure in addition to those set forth in this Ordinance by majority consent;
  9. The Board will schedule a meeting in order to hear and take action on any appeal or request within thirty (30) days of receipt of an appeal or request; and
  10. The Board shall provide regular reports to the Mayor and Council, and in any event not less than twice annually.

SECTION 5. LIMITATION OF POWERS. Neither the Board nor any member thereof may incur city expenses or obligate the city in any way without prior authorization of mayor and council.


SECTION 6. STAFF SUPPORT; MINUTES. The City Manager's Office shall provide staff to support the functions of the Board and to maintain minutes of its meetings. The Board's meeting minutes shall be filed with the City Clerk.




SECTION 7. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance.

SECTION 8. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this Ordinance become immediately effective, an emergency is hereby declared to exist and this Ordinance shall be effective immediately upon its passage and adoption.

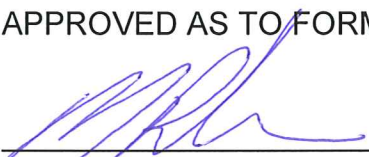
PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COUNCIL OF  
THE CITY OF TUCSON, ARIZONA, September 10, 2013.

  
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MAYOR

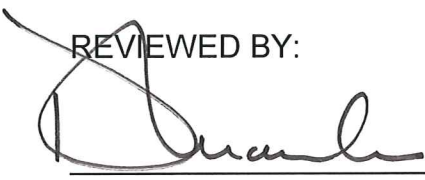
ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

REVIEWED BY:

  
\_\_\_\_\_  
CITY MANAGER

DPM/tl  
8/26/2013